

**State of California  
AIR RESOURCES BOARD**

**CRITERIA FOR  
EQUIPMENT AND PROCESS PRECERTIFICATION**

**Adopted: June 14, 1996**

California Air Resources Board

Criteria for Equipment and Process Precertification

I.	General Applicability .....	1
II.	Definitions .....	1
III.	Pre-Application Procedures .....	3
IV.	Eligibility Criteria .....	4
V.	Application Package Requirements .....	5
VI.	Requirements for Applications .....	5
VII.	Requirements for a Scope of the Precertification ..	6
VIII.	Requirements for Testing Protocols and Test Reports .	8
IX.	Confidentiality of Information .....	10
X.	Verification Testing Requirements .....	10
XI.	Precertification Procedures .....	11
XII.	Precertification Limitations and Disclaimers .....	13
XIII.	Duration and Renewal of Precertifications .....	14
XIV.	Modifications to Precertifications .....	15
XV.	Suspension or Revocation of Precertification .....	15
XVI.	Hearing Procedures .....	17
XVII.	Fee Assessment Procedures .....	19

California Air Resources Board

Criteria for Equipment and Process Precertification

I. General Applicability

- (a) These criteria establish provisions for the ARB Executive Officer to precertify simple, commonly used equipment and processes pursuant to Section 91400, Chapter 1, Division 3, Title 17 of the California Code of Regulations and Section 39620, Chapter 3.1, Division 26 of the Health and Safety Code.
- (b) These criteria set forth basic precertification requirements, including, but not limited to: equipment and process eligibility; pre-application procedures; application package requirements; verification testing requirements; precertification procedures; modification, suspension or revocation procedures; and fee assessment procedures.
- (c) ARB staff may develop guidelines to assist interested parties in accessing the precertification process.

II. Definitions

- (a) For the purposes of this criteria, the following definitions apply:
  - (1) Air District or District. Refers to any of California's local air pollution agencies, including air pollution control districts and air quality management districts.
  - (2) Applicant. Refers to a person, group of persons, or any organization applying for precertification of equipment or process.
  - (3) Application Package. Compilation of information that is required to be submitted by the applicant. The package shall include a written application for precertification with detailed information regarding the equipment or process, a written scope of the precertification; test protocols, reports, and data;

- and partial payment of precertification fees.
- (4) ARB. Refers to the State of California Air Resources Board.
  - (5) ARB Executive Officer. Refers to the Executive Officer of the ARB or his/her authorized representative or designee.
  - (6) Board or State Board. Has the same meaning specified in section 39053 of the Health and Safety Code.
  - (7) Commonly Used. Equipment or processes that are mass-produced and commercially available for operation by numerous sources under the same or similar conditions. This may also include modifications to, replacements for, or innovative alternatives to existing equipment or processes already in use at numerous sources.
  - (8) Data Quality Objectives. Qualitative and quantitative measurements or statements that must be obtained from the environmental data operations in order to demonstrate that the desired and expected result has been achieved. These may include parameters including accuracy or bias, precision, representativeness, comparability and completeness needed to support issuance of a precertification.
  - (9) Days. Means calendar days except where specified as working days.
  - (10) Equipment or Air Pollution Equipment. Any article, machine, or other contrivance which may emit, produce, prevent, reduce, control, treat, test, or monitor air pollutants or air quality.
  - (11) Performance Precertification. A preliminary engineering evaluation of equipment or process to verify performance claims and to identify the range of operating conditions under which verification testing was conducted.
  - (12) Precertification. See Performance Precertification or Regulatory Precertification.
  - (13) Precertification Specifications. Equipment or process specific requirements which must be satisfied during verification testing, as identified in the scope of the precertification or determined by ARB staff during evaluation and testing of the equipment.
  - (14) Precertification Standards. General requirements for equipment or processes which must be satisfied during verification testing, as identified in the scope of the

precertification, and which are based upon emissions, efficiency, work practice or other specific criteria applicable to all equipment or processes within a general category.

- (15) Process or Air Pollution Process. A systematic series of steps taken including but not limited to the materials, methods, products, devices, equipment, applications, or technologies which may emit, produce, prevent, reduce, control, treat, test, or monitor air pollutants or air quality.
- (16) Regulatory Precertification. An identification and evaluation of the regulatory requirements associated with use of the equipment which has successfully undergone a performance precertification. Regulatory precertification shall include recommended permit conditions to be adopted by a district having jurisdiction over the location where the equipment or process is operated.
- (17) Scope of the Precertification. The document identifying the applicant's claims regarding performance, emissions or efficiency of the equipment or process; and the test procedures, data quality objectives, and calculation procedures which will be followed to verify the claims.
- (18) Test Procedures or Methods. Specific written procedures for identification, measurement and evaluation of one or more qualities, characteristics, or properties of a material, product, system, or service that produces a test result.
- (19) Verification Testing. Tests conducted during or prior to the evaluation of the application package to provide test data to support applicant's claims.

### III. Pre-Application Procedures

- (a) An applicant must prepare a written request for precertification which shall include:
  - (1) the name of applicant, contact person, mailing address, and telephone number;
  - (2) a brief description of the equipment or process, how it operates, and potential air pollutants emitted,

reduced, controlled or monitored by the equipment or process;

- (3) a statement that the equipment or process does not pose a significant potential hazard to public health and safety or to the environment if operated in accordance with manufacturer's recommendations;
  - (4) information which supports a determination that the equipment or process is commonly used; and
  - (5) a brief description of potential precertification standards and an indication if performance or regulatory precertification will be sought.
  - (6) Any additional information requested by ARB staff in order for it to make a determination regarding eligibility or priority for precertification;
- (b) ARB staff shall review the request and determine whether or not the proposed equipment or process is appropriate to precertify based upon the eligibility criteria within 15 days.
- (c) Upon the determination that the equipment or process is eligible for precertification, the applicant and ARB staff may meet or exchange additional information on the equipment and process being submitted for precertification, the scope of the precertification including performance claims and available test data, the requirements for the application package, the process and procedures for precertification, and the fee assessment procedures. Based upon the information received, ARB staff shall prepare a written estimate of its costs.

#### IV. Eligibility Criteria

- (a) In order for the equipment to be considered for precertification by ARB Executive Officer, the equipment or process must not pose a significant potential hazard to public health and safety or to the environment if operated in accordance with manufacturer's recommendations. The equipment or process must be related to air quality requirements in California and must be commonly used.

- (b) The ARB Executive Officer may grant priority to: simple equipment or processes; ARB staff targeted equipment classifications, including equipment subjected to Board adopted regulations or control measures; district priority equipment classifications or district precertified equipment; and equipment or processes which may result in permit streamlining, emission reductions, or pollution prevention. ARB staff may review such an application in advance of other applications from applicants that do not meet these criteria.

#### V. Precertification Application Package Requirements

A Precertification Application Package shall include a written Application, a Scope of the Precertification, Testing Protocols and/or Test Reports, and the payment of one-half of estimated fees pursuant to section XVII.

#### VI. Requirements for Applications

All applications for precertification shall be in writing and shall be signed by an authorized representative of the applicant. The applicant shall affirm that the information provided in the application package is true and correct and that the applicant shall pay any and all fees assessed in accordance with the precertification criteria.

- (a) Performance Precertification. Applicants for performance precertifications shall provide all of the following information to ARB staff, unless ARB staff indicates to the applicant that a particular item need not be submitted.
- (1) Name of applicant, contact person, mailing address, and telephone number if different from information submitted on request for precertification;
  - (2) Legal status of the applicant (corporation, partnership, individual owner, etc.);
  - (3) Reason for the application (new application, request for modification, transfer of ownership, etc.);
  - (4) Name of equipment, model numbers, and a description of the equipment or process and how it operates unless ARB

- staff indicate that sufficient details were provided in the request for precertification;
- (5) Materials/Input streams for which the equipment or process is to be precertified, including maximum production and usage rates;
  - (6) Description of criteria pollutants, non-criteria air pollutants and precursors emitted from equipment, points of emission, and all other output streams from use of the equipment and processes. Include mass emission rates, stack concentrations, stack conditions, and other data for evaluation of impact of emissions;
  - (7) Equipment or process design and block diagram;
  - (8) Equipment or process operation parameters and operation procedures (e.g. temperature, pressure, velocity);
  - (9) Description of air pollution control equipment, monitoring devices, and emissions related safety features;
  - (10) Detailed written installation, operation, training, inspection, maintenance and emergency/upset instructions for the use of the precertified equipment or process to ensure that the equipment or process is operating properly;
  - (11) Any additional information requested by ARB staff in order for it to make a determination regarding suitability for precertification;

(b) Regulatory Precertification. In addition to all of the information required by subdivision (a), applicants for regulatory precertifications shall also provide the following supplemental information to ARB staff:

- (1) identification of air districts to be included in regulatory precertification evaluation;
- (2) Any additional information requested by the staff of the ARB or an identified district in order to make a determination regarding suitability for regulatory precertification.

## VII. Requirements for a Scope of the Precertification

All applicants seeking an air pollution equipment and process precertification shall include a scope of the

precertification as part of the application package. The scope of the precertification shall include the precertification standards, precertification specifications, test procedures, data quality objectives, and calculation procedures.

- a) Precertification Standards shall be proposed by the applicant in the scope of the precertification. These may include performance claims, state, federal, and local air district prohibitory rule related standards, Best Available Control Technology determinations, or Airborne Toxic Control Measure standards which are based upon emissions, efficiency, or written criteria applicable to all equipment within a general category.
- (b) Precertification Specifications applicable to the specific equipment or process shall be proposed by the applicant in the scope of the precertification or may be determined by the ARB staff during review, evaluation, or testing of the equipment or process. These may include critical operating parameters, performance claims, permit conditions, parameters for indicating gauges, monitoring or detection devices, or alarms. Precertification specifications shall be monitored during verification testing and may provide a basis for compliance testing or monitoring of the in-use equipment to achieve and maintain the performance levels equal to or greater than the level of the precertification standards and ensure that it is operated properly and used safely.
- (c) Test Procedures shall be identified by the applicant for all verification testing. Board adopted test methods shall be used for verification testing. The applicant may propose to use methods approved by other agencies or other alternative sampling and analysis methods within the scope of the precertification. The applicant shall provide sufficient information to enable the ARB Executive Officer to determine in writing that the alternative method is substantially equivalent to the Board adopted method for the precertification or that the Board adopted method is not adequate to characterize the emissions or performance.
- (d) Data Quality Objectives shall be identified by the applicant in the scope of the precertification to ensure that the data

will meet a minimum level of acceptance. Data must be generated with an accepted, verified, or calculated precision, bias or accuracy, and sensitivity; the data must be comparable to the precertification standards and specifications; the data must be complete; and the results must be representative of the make or model of the equipment or process, of normal operating conditions, and of the actual emissions from the equipment.

- e. Calculation procedures to convert test data into results which can be compared to the standards or specifications shall be identified by the applicant. The calculation procedures must result in an accurate and comprehensive characterization of emissions or efficiency, be clear, well documented, easy to verify, and be of demonstrated reliability. Each applicant may generate equipment specific emission factors from the verification test data in emissions per applicable unit of usage and maximum hourly emissions.

#### VIII. Requirements for Testing Protocols and Test Reports

The applicant shall submit written testing protocols for all verification testing to be conducted and/or written test reports for previously conducted testing as part of the application package. Upon completion of verification testing conducted under approved protocols, the applicant shall submit written test reports within the time-frame specified in the protocol.

(a) All testing protocols shall include the following:

- (1) The time-frame or approximate dates during which the testing will be performed and the location of the test site;
- (2) Name and qualifications of companies and/or persons who will conduct the testing including all sampling and analytical procedures (including copy of independent tester executive order provided pursuant to Section 91207, Title 17, California Code of Regulations, or similar written district approval or accreditation, if the tester has been approved for the proposed test method);

- (3) Brief description of the equipment or process tested;
- (4) Approximate values or range of values for process reactant composition and rates, fuel composition and firing rates, other process operating parameters and conditions to be monitored during the specific test;
- (5) Source test, sampling and analysis methods (alternative methods must be described in detail);
- (6) Equipment specifications and drawings as needed to plan and interpret source test results, including but not limited to stack dimensions and port configuration;
- (7) Approximate stack conditions including: temperature; concentrations of each measured pollutant; mass emission rates; oxygen, carbon dioxide and moisture content; exhaust gas velocity and volumetric flow rate;
- (8) Quality assurance plan including: calibration data, traceability of calibration gases, frequency of checks, and acceptance criteria; quality control data including frequency of zero, span, drift, audit, blank and spiked samples; and chain of custody documentation;
- (9) Estimated limit of detection, proposed number of test runs, number of sampling points, planned sample volumes and times, and any other pretest calculations required for each method;
- (10) Applicable precertification standards, precertification specifications, or other operating conditions affecting emissions during operation;
- (11) Estimated date on which (or number of days until) the test report will be submitted.

(b) All test reports must include the following information:

- (1) All actual test values for the information required for test protocols as listed in section (a) and in the scope of the precertification;
- (2) Supporting data and documentation of test conditions and all operating conditions specified in the scope of the precertification;
- (3) Test reports or written results from prior testing shall also show that testing was conducted following adopted or approved alternative methods and results must be compatible with scope of the precertification including proposed standards, specifications, and data quality objectives. Test reports generated by

independent testing and reports that have been reviewed and considered valid by an air district or by ARB staff are preferred.

IX. Confidentiality of Information.

Information submitted to the ARB Executive Officer pursuant to these criteria may be claimed as confidential by the applicant. If a claim is asserted, such information shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Section 91000-91022. The ARB Executive Officer may consider such confidential information in reaching a decision on a precertification application.

X. Verification Testing Requirements

For all verification testing to be conducted during precertification:

- (a) The applicant shall identify a suitable test location within the State of California which either operates or is capable of operating the equipment or process unless prior written approval of the site is received from the ARB Executive Officer. The applicant shall ensure that safe access and proper sampling facilities are available and that the site complies with all local requirements. The applicant shall provide a written notice of the test date(s) and time at least 15 days prior to the testing and shall provide 5 days advance notification of any adjustments in the date(s) or time.
- (b) The applicant or contractor for the applicant is responsible for conducting verification testing, completing the quality assurance plan and quality control checks, completing data reduction and validation, and preparing the test report within the time frames identified in the test protocol. Testing shall not begin until after the approval of the testing protocol.
- (c) All testing shall be conducted by qualified independent testing companies, unless written approval is given by the ARB Executive Officer.

- (d) Verification testing shall not be performed by the applicant or contractor for the applicant which has a conflict of interest as defined in Section 91208, Title 17, California Code of Regulations without prior written approval of the ARB Executive Officer.
- (e) The applicant or contractor for the applicant shall record sufficient test and process data at the time of the test to determine emissions or efficiency, verify operating conditions and specifications, and evaluate test results including unusual occurrences, results, and testing conducted prior to the start of actual verification testing.
- (f) All verification testing shall be conducted while the equipment is operated under representative operating conditions and all samples collected must be representative of the emissions or efficiency under the test conditions. Testing under non-representative operating conditions may only be performed when determining an acceptable operating range for precertification specifications.
- (g) ARB staff may be present to observe all aspects of field, source, bench, or laboratory testing and to approve minor modifications to testing protocol. Major deviations to the testing protocol must be approved in writing by the ARB Executive Officer. When appropriate, ARB staff may require analysis of audit materials or collection of split confirmation samples.

#### XI. Precertification Procedures

- (a) ARB staff, upon receipt of application packages (including one-half of estimated fees pursuant to section XVII) for Performance and Regulatory Precertifications, shall:
  - (1) Review the test protocols and notify the applicant in writing within 30 days of receipt whether or not the protocols are approved or will require modification;
  - (2) Evaluate verification testing including the oversight of testing and the review of test reports to determine if test procedures were conducted in accordance with methods, data met data quality objectives, and test

results satisfy precertification standards and specifications;

- (3) Review the application package and notify the applicant in writing within 30 days of receipt of test reports whether or not the application package has been determined to be complete and accepted for filing or to be deficient. If deficient, the ARB staff shall identify the specific information required to make the application package complete.
- (4) Review and revise completeness determination and provide notification to applicant within 15 days of receipt of additional information provided for a deficient application package;
- (5) Prepare a preliminary evaluation report which describes the equipment or process, the scope of the precertification, the evaluation of verification testing, recommendations on suggested operating conditions and a recommendation for the Executive Officer to issue or deny the precertification. If denied, the ARB staff shall provide the reasons for the denial.
- (6) Provide the applicant and applicable local air districts an opportunity to review the preliminary evaluation report prior to approval and request that comments be submitted within 30 days of receipt of preliminary report.
- (7) Prepare the final evaluation report for approval by the ARB Executive Officer within 90 days of the application being deemed complete. The time period may be extended for:
  - (A) evaluation of information submitted by an applicant in response to request from ARB staff to clarify, amplify, correct, or otherwise supplement the application package or test reports; or
  - (B) evaluation of additional verification testing; or
  - (C) good cause as provided by Government Code Section 15376;The time period may also be extended by mutual agreement of ARB staff and the applicant.
- (9) Request and receive payment of remaining fees, pursuant to section XVII;
- (10) Issue precertification consisting of an Executive Order and the approved evaluation report after receipt of

remaining fees. After approval and signature, evidence of precertification shall be maintained in ARB files and shall be made available upon written request to the ARB Executive Officer.

- (b) In conjunction with all of the procedures outlined in subdivision (a), ARB staff shall use the following procedures to evaluate application packages for regulatory precertification. ARB staff shall:
- (1) Review the supplemental documentation submitted by the applicant of the air pollution equipment or process for completeness and adequacy;
  - (2) Consult with specified air districts during the review of the evaluation report and during determination of operating conditions;
  - (3) Determine applicable state, federal and district regulations.
  - (4) Request that districts notify ARB staff if equipment or process will comply with district rules and regulations within 30 days of receipt of preliminary report.
- (c) The decision on an application for precertification under this section is exempt from the requirements of Chapter 3.5 (commencing with Section 11340), and Chapter 4 (commencing with Section 11370), and chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not be subject to the review and approval of the Office of Administrative Law.

## XII. Precertification Limitations and Disclaimers

- (a) Precertification by the Board means only that ARB staff has verified emission test data supplied by or on the behalf of the manufacturer of the equipment or process. Precertification does not represent any endorsement whatsoever by the Board as to the quality or utility of the equipment or process, nor does it represent that the equipment or process is any more or less harmful or beneficial to air quality than any other similar equipment or process. Precertification by the Board does not represent any guarantee of the performance or safety of the

equipment or process. Precertification does not represent the absence of any pollutant nor is the Board or its staff liable for failing to verify the existence or levels of any pollutant which is not identified in the scope of the precertification. The Board and ARB staff shall not be liable in any way in the event that the equipment or process fails to perform as advertised by the supplier or as expected by the consumer. The Board and ARB staff shall not be liable for any injury to person or property resulting from the use of any precertified equipment or process. The holder shall not make any claims of any kind which implies endorsement by the Board or ARB staff with respect to this equipment or process in any advertising or other oral or written communication.

- (b) Precertification by the Board does not represent, nor may it be used to, satisfy the requirements for obtaining other certifications required under state law.
- (c) Precertification by the Board does not represent, nor may it be used as, a permit to operate unless authorized under local district regulation. Precertification does not affect the existing district authority regarding permitting or compliance requirements.
- (d) The holder of an air pollution equipment or process precertification shall cite the precertification number and date of issuance whenever the precertification is used or referred to.
- (e) When providing information on the precertification to an interested party, the holder of an air pollution equipment or process precertification shall at a minimum provide the full text of the signed Executive Order and evaluation report.

#### XIII. Duration and Renewal of Precertification

- (a) The maximum duration of air pollution equipment or process precertification is three (3) years. The actual duration of the precertification, if less than three years, shall be specified within the Executive Order.

- (b) The holder of a precertification may apply for a renewal at least 90 days prior to the expiration of the precertification. ARB staff shall verify that the equipment has not been modified and is not currently subject to suspension or revocation procedures. ARB staff shall re-evaluate the equipment or process to determine if standards and specifications continue to be satisfied. Applicant shall be notified if any changes are required prior to re-issuance or denial. The maximum duration of each re-issued precertification shall be three years.
- (c) Fees for a renewal of a precertification shall be assessed in accordance with Section XVII.

#### XIV. Modifications to Precertifications

- (a) The holder of a precertification shall apply for a revision to the precertification whenever the equipment is modified or altered in a manner that may result in change of emissions, efficiency, specific criteria, or operating conditions.
- (b) The holder of a regulatory precertification shall apply for a revision to the precertification within 60 days of notification by ARB staff of changes in applicable district, state or federal regulations. Failure to apply for revision may result in suspension or revocation of precertification.
- (c) During the time interval ARB staff is evaluating the revision, the existing precertification shall remain valid unless suspended or revoked.
- (d) Fees for an evaluation of any revision to a precertification shall be assessed in accordance with Section XVII.

#### XV. Suspension or Revocation of Precertification

- (a) The ARB Executive Officer may, for cause, suspend or revoke a precertification in any of the following circumstances:

- (1) The holder of precertification is in violation of one or more terms and conditions of the precertification;
- (2) the holder of a precertification is misrepresenting the meaning, findings, effect, or other material aspect of the precertification;
- (3) the holder of a precertification has made material misrepresentations or provided misleading information in the course of the precertification process;
- (4) the holder of a precertification has made material misrepresentations or provided misleading information in the course of selling, marketing, advertising, or otherwise promoting the equipment or process that is the subject of the precertification;
- (5) the equipment or process which is the subject of the precertification is found, in actual use, not to comply with the findings set forth in the Executive Order and evaluation report. For the purposes of this section, noncompliance with the precertifications may include, but is not limited to:
  - (A) a repeated failure to perform to the standards set forth in the precertification;
  - (B) a material difference in design or construction of the process or equipment as precertified versus as provided for use to the public;
  - (C) whenever the equipment is modified in a manner that may result in change of emissions, efficiency, specific criteria, or operating conditions;
  - (D) an inability of the equipment or process to operate in compliance with air pollution regulations, based upon information from a local air district or upon pending enforcement actions taken by the ARB, local air district, or U.S.EPA for non-compliance with air pollution rules and regulations;
- (6) transfer or change of ownership of rights to manufacture or otherwise produce the equipment or process that is the subject of the precertification, without notification of the Executive Officer;
- (7) any other activity which may mislead a prospective consumer or permitting authority with respect to the equipment or process that is the subject of the precertification.

- (b) A precertification holder may be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.
- (c) In the event that the ARB Executive Officer suspends or revokes a precertification, an investigation may be made by the ARB Executive Officer to gather evidence regarding continuing violations of the terms or conditions of the precertification or the precertification program.
- (d) Any precertification holder whose precertification is suspended or revoked may request a public hearing pursuant to Section XVI to review the suspension or revocation action.
- (e) Nothing in this section shall prohibit the ARB Executive Officer from taking any other action provided for by law, including the prosecution of an action in court.

XVI. Hearing Procedures

- (a) Any applicant for or holder of performance precertification whose application or performance precertification has been denied, suspended, or revoked and who desires a hearing to review the action taken may request a hearing by sending a request in writing to the ARB Executive Officer. A request for hearing shall include all the following:
  - (1) name of applicant or precertification holder;
  - (2) name or identifying description of equipment or process that is the subject of the application package or precertification;
  - (3) number of the precertification (if applicable);
  - (4) copy of the Executive Order revoking or suspending precertification or a written notification of denial;
  - (5) a statement of facts setting forth the basis of challenging the denial, suspension, or revocation (mere conclusory allegations shall not suffice);
  - (6) a brief summary of evidence in support of the statement of facts required in (5) above; and
  - (7) signature of authorized person requesting the hearing.

- (b) A request for a hearing shall be mailed within ten (10) days of the issuance of the denial, suspension, or revocation.
- (c) A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the ARB Executive Officer. The hearing officer may be an employee of the Board, but may not be any employee who was involved with the precertification at issue. In addition, the hearing shall be conducted within these guidelines:
  - (1) The requester shall have the burden of showing that the denial, suspension, or revocation action was improper based on one or more of the following:
    - (A) the action was not supported by the evidence;
    - (B) the factual basis for the action was mistaken;
    - (C) the action was arbitrary and capricious; or
    - (D) the action was unnecessarily harsh in relation to the facts underlying the revocation or suspension.
  - (2) The Board may be represented by staff familiar with the precertification program and may present rebuttal evidence. The Board may be represented by counsel.
  - (3) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
  - (4) The hearing shall be recorded. The recording may be made electronically or by certified shorthand reporter.
  - (5) The hearing officer shall render a written decision within 30 working days. The hearing officer may do any of the following:
    - (A) uphold the denial, suspension, or revocation action as issued;
    - (B) reduce a revocation to a suspension;
    - (C) increase a suspension to a revocation if the precertification holder's conduct so warrants;
    - (D) overturn a denial, suspension, or revocation in its entirety.

- (6) The hearing officer shall consider the totality of the circumstances of the denial, suspension, or revocation, including but not limited to credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB certification programs.
  - (7) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.
- (d) In lieu of the hearing procedure set forth in (c), above, an applicant may request that the hearing be conducted by written submission. The applicant may submit a written explanation of the basis for the appeal and submitting appropriate documents in support of the applicant's position:
- (1) ARB staff may submit a written response and documents in support of the ARB Executive Officer's action;
  - (2) The precertification holder may submit one rebuttal statement (which may include supporting documentation as attachment(s));
  - (3) If the precertification holder submits a rebuttal, ARB staff may submit one rebuttal statement (which may include supporting documentation as attachment(s));
  - (4) The hearing officer shall be designated in the same manner as set forth in (c) above. The hearing officer shall receive all statements and documents and render a written decision. The hearing officer's decision shall be mailed to the precertification holder no later than thirty (30) working days after the final deadline for submission of papers.

#### XVII. Fee Assessment Procedures

- (a) ARB staff shall assess and collect reasonable fees for precertifications to recover the estimated costs to the ARB for evaluating air pollution equipment and processes, and issuing precertification.

- (b) Precertification fees shall be based upon the actual hours spent by ARB staff to evaluate the equipment or processes. After the pre-application meeting, ARB staff shall notify the applicant as to estimated total hours by staff classification anticipated to determine eligibility, conduct the pre-application meeting, prepare an estimate of the precertification fees, process the application, complete the evaluation, prepare the evaluation report, and issue the precertification. The estimated hours shall be multiplied by an hourly rate as determined on an annual basis by the ARB Executive Officer. The hourly rate shall include direct and indirect costs associated with precertification. Additional charges may be included if extensive travel is required, if ARB testing is needed, or if specialized evaluations or testing oversight are necessary.
- (c) One-half of the precertification fees shall be due and payable to the ARB as part of the application package.
- (d) The remaining fees shall be due and payable to the ARB upon written notification of the successful completion and approval of the Evaluation Report. The remaining fees shall not exceed the cost of the work performed plus the cost of processing the Executive Order and final evaluation report.
- (e) Precertification Fees paid that are not used prior to an application being withdrawn or denied shall be refunded upon request.
- (f) Failure to pay fees when due may result in written notice of cancellation of precertification application. A canceled application may be reinstated by payment of applicable fees plus 10 percent within 90 days of notice.
- (g) ARB staff may revise the estimated fees when insufficient information is provided at the pre-application meeting or in the application package, if significant changes in the scope of the precertification are needed, or if test data submitted is not sufficient to support precertification without additional testing, revision or re-evaluation. The applicant shall receive a revised estimate of the additional hours necessary to complete the evaluation of the precertification application along with a written

justification for the revision. The applicant shall have the option of paying an additional amount sufficient to cover remaining costs, requesting a reduction in the scope of the precertification, or requesting withdrawal of the application.

- (h) Renewal fees shall be based upon the actual hours spent by ARB staff to maintain the existing precertification, re-evaluate the equipment or process and to reissue the documentation. Renewal fees shall be due and payable to the ARB prior to expiration of the precertification or upon written notification.
- (i) Change of ownership fees shall be assessed at two and one-half hours of staff time multiplied by the current hourly rate. These fees shall be due and payable to the ARB upon submittal of request for change of ownership.
- (j) Fees for modifications to precertifications shall be recalculated based upon number of hours needed to evaluate and modify precertification in accordance with subsection (b) through (f) above. These fees shall be due and payable to the ARB upon submittal of request for modification.

## CALIFORNIA HEALTH AND SAFETY CODE

### CHAPTER 3.1. PERMIT ASSISTANCE

(Chapter 3.1 added by Stats. 1992, Ch. 1096, Sec. 1.)

**39620.** (a) The state board shall implement a program to assist districts to improve efficiencies in the issuance of permits pursuant to this division. The program shall be consistent with the requirements of Title V.

(b)(1) The program shall include a process, developed in coordination with the districts, for the state board to precertify simple, commonly used equipment and processes as being in compliance with applicable air quality rules and regulations, under conditions specified by the state board. The state board shall develop criteria and guidelines for precertification in coordination with the districts.

(2) The state board shall charge a reasonable fee for precertification, not to exceed the state board's estimated costs. Payment of the fee shall be a condition of precertification.

(3) Precertification shall not affect any existing authority of a district regarding permitting and compliance requirements. Precertification shall constitute a preliminary evaluation of the equipment or process, and a recommendation by the state board for permit conditions to be adopted by a district having jurisdiction over particular equipment or a particular process, that would allow district permitting staff to more quickly process permit applications for air pollution sources.

(4) The California Environmental Protection Agency, within existing resources, and in consultation with appropriate state and local regulatory agencies, shall evaluate the feasibility and benefits of expanding the precertification program to involve other state and local regulatory agencies with jurisdiction over other environmental media, including land and water.

(Amended by Stats. 1994, Ch. 429, Sec. 1)